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REMARKS

Claims 1-20 are pending in the present application.

Claims 4 and 11 are objected to, but were indicated to be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Claims 5-7 and 12-20 were withdrawn from consideration.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 103 (Obviousness)

Claims 1-3 and 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0143547 to *Headings et al.* This rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 3 August 2005). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

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As previously noted, independent claims 1 and 8 each recite holding a purchase transaction for processing during a subsequent period in response to determining that the remote purchase transaction should not be completed based upon a purchase limit for the current period. Such a feature is not found in the cited reference. *Headings et al* teaches crediting a first account (for the payee) while debiting a second account (for the payor), and suspending the credit to the first account if the debit to the second account cannot be posted (i.e., the transaction is not approved). Nothing in *Headings et al* suggests that "suspending" a transaction (requiring manual limit override and/or authorization, for instance) could include the alternative of holding the transaction until a subsequent period, to be processed after a period-based limit is reset at the start of the subsequent period.

The final Office Action states:

> The Applicant has argued that Headings does not teach holding a transaction for processing after determining that the transaction should not be completed based on a purchase limit. In addressing this limitation, the Examiner established a *prima facie* case of obviousness by showing that Headings provides sufficient teachings to render this limitation obvious to one of ordinary skill in the art. In particular, Headings teaches that the HoH can establish permissions such as spending limits for sub-accounts (paragraphs [0004], [0019], [0022]). Furthermore, Headings teaches suspending a transaction if a debit cannot be posted to a second account (claim 6). Thus the Examiner has established a *prima facie* case of obviousness, and the Examiner maintains the art rejection.

Paper No. 20060129, page 4. However, the limitation at issue is not merely "holding a transaction for processing after determining that the transaction should not be completed based on a purchase limit" as stated in the quoted-language above, but is instead holding a transaction for processing during a subsequent period after determining that the transaction should not be completed based on a purchase limit. Nothing in *Headings et al* suggests that the transaction exceeding a period-based limit may be held for processing during a subsequent period, when the

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period-based limit refreshes. The cited portions of the specification in *Headings et al* merely

teach that the head of household (HoH) may set various limits for both the main account and the

family member accounts:

> [0004] The present invention is generally directed to a system and method for creating and maintaining subscriber accounts. Two types of accounts are preferred: a head-of-household (HoH) account (a main account) and one or more family member accounts (sub-accounts). The head-of-household (HoH) account is the primary account holder who preferably controls all activity in the account, including any sub-accounts. The present system may be used to group accounts into service groups (groups defined by provider and/or level of service) and publishing groups (groups defined by demographics and/or viewing preferences). The grouping of accounts into publishing groups facilitates targeting advertisements to a particular account member. Each account may have established therewith permissions which place limits or restrictions on, for example, the material viewed, the amount spent, or viewing times.

> . . . .

> [0018] In step 108, an account number is assigned for each HOH account. In step 110, the HoH is queried as to whether one or more family accounts are to be created. If one or more family accounts are to be created, then in step 112, family member personal information is obtained similar to that information obtained in step 104. In step 114, sub-account numbers are assigned accordingly. In step 116, the HoH is queried as to whether another family member account is to be created. If another family member account is to be created, then steps 112 through 116 are repeated.

> . . . .

> [0022] As an example of using selective permissions amongst different family members, the HoH may impose a monthly spending limit of $45.00, restrict viewing of R-rated and Adult type movies and television shows for one family member account, while on a different family member account, imposing a higher spending limit, restricting access to PG-rated material, and imposing no time restrictions. Once all account creation and permission establishments have been addressed, then in step 132 the account creation is completed. The aforementioned method steps need not be performed in the particular order as just described. Many steps are interchangeable, or may be omitted altogether. For example, the establishment of a form of payment may be done before HoH personal information is obtained. Further, accounts may be created without opportunity to create family member accounts, or may be created without an option to establish account permissions. Other account permissions are envisioned and within the scope of the present invention.

Nothing in these portions of *Headings et al* teaches holding a transaction exceeding a period-based limit until the next period. Similarly, cited claim 6 from *Headings et al* merely teaches that transactions to a first account (e.g., a services account such as an entertainment access account) will be suspended if no funds are available from the designated source of funds, the second account (e.g., a credit card account, a checking account, a savings account, and a debit card account):

> 6. The system of claim 1, wherein said processor is programmed to suspend the transactions associated with the first account if said debit cannot be posted to the second account.

Nothing in this portion of *Headings et al* relates to period-based limits on the first account, or holding a transaction during one period until a subsequent period. No motivation or incentive has been identified for combining suspension of transactions when no funds are available as taught in this portion of *Headings et al* with the period-based limits disclosed in the other portion of *Headings et al*.

Regardless, even the two cited portions of *Headings et al*, taken (improperly) in combination, do not satisfy the limitation, because neither portion discloses specifically suspending a transaction exceeding a period-based limit until a subsequent period as recited in the claims. No motivation or incentive for further modification of the actual teachings in *Headings et al* to achieve this feature has been identified.

Therefore, the rejection of claims 1-3 and 8-10 under 35 U.S.C. § 103 has been overcome.

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If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.
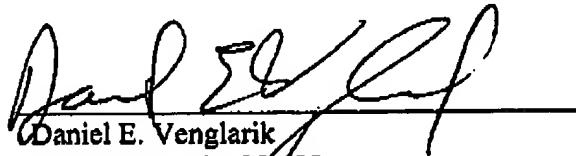
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

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